



LARGER COMMON PLAN PERMITTING GUIDANCE DOCUMENT (12/07)

The North Dakota Department of Health (NDDoH) has developed new guidance for permitting construction activity within a larger common plan of development or sale. The construction stormwater general permit, NDR10-0000, defines a larger common plan as:

“a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.”

Examples of larger common plans include residential subdivisions, commercial developments, or industrial parks.

Beginning January 1, 2008:

- A Notice of Intent (Application) or NOI to obtain coverage under the general permit is required from each individual builder within separate and distinct common plans. By submitting a NOI, each builder is responsible for complying with the terms and conditions of the general permit including the development of a site-specific Stormwater Pollution Prevention (SWPP) plan and inspection records. The NOI must be submitted to the North Dakota Department of Health before construction activity begins.

An individual builder is considered the owner/operator of the site as defined in the general permit.

- The NOI is required from the individual builder when coverage under the construction general permit is transferred from the developer of the common plan to the individual builder. If a transfer is not performed, then the stormwater permit requirements pertaining to the builder's activities are the responsibility of the developer. If an option to buy exists on the property, the developer may not transfer coverage.

The following provides further explanation of the transfer process:

1. The developer sells off property to a builder*.
2. The developer amends the SWPP plan to exclude those areas which have been sold to a builder.
3. The builder then applies for coverage under the general permit for the purchased property, or if coverage already exists, amends the existing SWPP plan and site map for that common plan to include the property.

* If the builder does not obtain a permit and the developer does not have documentation requiring the builder to apply for permit coverage or comply with environmental regulations as part of the property sale, the developer is responsible for stormwater discharges from the sold lots.

- A NOI is required from an individual builder once coverage is transferred and before construction activity begins. **Once coverage has been granted to the builder, activity which disturbs additional acreage within the common plan will not require the submittal of another NOI. Instead, all activity conducted by the builder within the common plan is covered under the initial NOI.**
- The builder shall keep and maintain a list of their active construction sites within the common plan as part of the SWPP plan. The SWPP plan shall also indicate the locations of any site-specific BMP.
- The submittal of one Notice of Intent for construction activity within a larger common plan eliminates the individual builder's requirement to submit an annual location report to the Department at the end of the reporting period. However, an annual report is still required for small construction activities that are not part of a larger common plan.

The permitting requirement applies to all common plans of development or sale within the State of North Dakota. This includes but is not limited to industrial, commercial and residential construction activity.

In order to terminate coverage, a builder must submit a Notice of Termination (NOT) to the NDDoH. Termination of coverage within a larger common plan of development may be achieved by:

- Achieving final stabilization on all properties for which the builder is responsible.
- Transferring permit coverage to another builder who has purchased the property; similar to the initial transfer between the developer and the builder.
- For residential construction only, temporary erosion protection and down gradient perimeter control for individual lots has been completed and the residence has been transferred to the homeowner. Additionally, the builder has distributed a "homeowner fact sheet" to the homeowner informing them of the need for, and benefits of, final stabilization.

There may be instances where the covered property within a larger common plan has achieved final stabilization, but no additional construction activity is anticipated. In those instances a builder may choose to maintain or terminate coverage at their own discretion. If coverage has been terminated and a parcel of property is sold to a new builder, the new builder must obtain coverage before construction activity begins.